

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Rural Call Completion)	WC Docket No. 13-39
)	

**REPLY COMMENTS OF
USTELECOM – THE BROADBAND ASSOCIATION**

USTelecom – the Broadband Association (USTelecom)¹ submits these reply comments in response to the Second Report and Order (2nd RCC Order) and Third Further Notice of Proposed Rulemaking (Notice) issued by the Federal Communications Commission (Commission) in the above referenced proceeding.² In its Notice, the Commission seeks to implement measures required by the Improving Rural Call Quality and Reliability Act of 2017 (“RCC Act”).³

Among other things, the RCC Act directs the Commission to establish registration requirements, monitoring obligations and service quality standards for Intermediate Providers. Many commenters agreed with the issues raised in USTelecom’s comments in this proceeding, including broadly defining Intermediate Providers, applying uniform standards for Covered Providers and Intermediate Providers, implementing the RCC Act only for rural areas, and expeditiously sunsetting the recording and retention obligations.

¹ USTelecom is the premier trade association representing service providers and suppliers for the telecom industry. Its diverse member base ranges from large publicly traded communications corporations to small companies and cooperatives – all providing advanced communications service to both urban and rural markets.

² Second Report and Order and Third Further Notice of Proposed Rulemaking, *Rural Call Completion*, FCC 18-45 (April 17, 2018) (for citation purposes, USTelecom refers to the Second Report and Order as the “2nd RCC Order” and the third further notice of proposed rulemaking portion of the item as the “RCC Notice”).

³ Improving Rural Call Quality and Reliability Act of 2017, Pub. L. No. 115-129 (2018) (the “RCC Act”).

I. Commenters Support a Broad Definition of “Intermediate Providers.”

Several commenters agreed with USTelecom that the Commission should define the phrase “Intermediate Provider” as broadly as possible.⁴ For example, Affinity Network Inc. d/b/a ANI Networks (ANI) repeatedly urges the Commission to “broadly” define various definitions of its rules to ensure all appropriate Intermediate Providers are identified. These areas include “broadly interpret[ing] the term ‘charge’ in order to prevent gamesmanship,” as well as applying a “broad interpretation of the term ‘use’ in Section 262(b),” which ANI understands to mean that a covered provider “may not rely on any unregistered intermediate provider in the path of a given call.”⁵ Regarding the former, ANI encourages the Commission to “treat any form of direct or indirect consideration received by intermediate providers from covered providers as a ‘charge’ – whether such consideration is monetary or an alternative.”⁶

Verizon also calls for a broad definition of Intermediate Provider.⁷ It emphasizes that the statutory language within the RCC Act “does not” narrow the scope of Intermediate Providers subject to the registration and service quality standard requirements.⁸ Similar to USTelecom’s observation, Verizon correctly notes that the “legislative history makes clear Congress’s intent to apply the RCC Act to all intermediate providers” as defined in the RCC Act, “which does not turn on whether the intermediate provider charges a fee, but instead

⁴ See, Comments of USTelecom – the Broadband Association, WC Docket No. 13-39, pp. 2 – 5 (submitted June 4, 2018) (*USTelecom Comments*).

⁵ Comments of Affinity Network, Inc. d/b/a ANI Networks, WC Docket No. 13-39, p. 2, p. 3 (submitted June 4, 2018) (*ANI Comments*).

⁶ *Id.*, p. 2.

⁷ Comments of Verizon, WC Docket No. 13-39, pp. 2 – 3 (submitted June 4, 2018) (*Verizon Comments*).

⁸ *Id.*, p. 2.

focuses on the intermediate provider's function.”⁹ USTelecom agrees with Verizon that the Commission should exempt from the registration requirement “only those intermediate providers Congress identified as exempt: those that only incidentally carry voice traffic.”¹⁰

INCOMPAS notes that the Commission's proposed definition for Intermediate Providers “may be both over- and under-inclusive.”¹¹ Regarding the latter, USTelecom agrees with INCOMPAS that failure to appropriately define the term may leave compliant Intermediate Providers “at a competitive disadvantage to non-certified competitors that might not be subject to ‘intermediate provider’ requirements.”¹² INCOMPAS is correct in acknowledging that due to the “evolving telecommunications marketplace,”¹³ certain providers could “become involved in the call completion process without meeting the criteria of an intermediate provider.”¹⁴ USTelecom maintains that it is far better for the Commission to broadly define which carriers are indeed Intermediate Providers in order to avoid the possibility of missing such providers.

II. There is Broad Support to Adopt the Same Flexible, Standard-Based Approach to Quality Standards for Intermediate Providers as Adopted for Covered Providers.

USTelecom and others also encouraged the Commission to adopt the same flexible, standards-based approach for Intermediate Providers that is applied to Covered Providers under the 2nd RCC Order. Multiple commenters in this proceeding expressed support for this approach, which would make the Commission's rural call completion framework administratively and operationally efficient, and therefore more effective.

⁹ *Id.*, pp. 2 – 3.

¹⁰ *Id.*, p. 3.

¹¹ Comments of INCOMPAS, WC Docket No. 13-39, p. 6 (submitted June 4, 2018) (*INCOMPAS Comments*).

¹² *Id.*, p. 7.

¹³ *Id.*

¹⁴ *Id.*

Commenters supporting this approach realize that one of the best ways for the Commission to promote rural call completion is to harmonize obligations for Intermediate Providers and Covered Providers. This will be particularly important for providers falling into both categories, since it will prevent wasteful, conflicting frameworks and instead establish a common monitoring platform that will be more effective and efficient.

Regarding this issue, the Alliance for Telecommunications Industry Solutions (ATIS) states that Covered Providers and Intermediate Providers “largely use the same network facilities, routing tables, and performance monitoring systems, regardless of whether they are providing service to a retail customer as a covered provider or to a wholesale carrier-customer as an intermediate provider.”¹⁵ ATIS further states that “the need to avoid the imposition of inconsistent regulatory obligations indicates that covered providers and intermediate providers should be subject to the same service quality standards.”¹⁶

ANI Networks also encouraged the Commission to “adopt a basic set of ground rules” for Intermediate Providers.¹⁷ Similar to USTelecom’s recommendation,¹⁸ ANI Networks further encouraged the Commission “not to impose more complex service quality standards, which may not be appropriate for all intermediate providers and could unnecessarily restrict carriers’ flexibility to determine the standards best suited to their individual networks.”¹⁹ INCOMPAS

¹⁵ Comments of the Alliance for Telecommunications Industry Solutions, WC Docket No. 13 – 39, p. 4 (submitted June 4, 2018) (*ATIS Comments*).

¹⁶ *Id.*, p. 5.

¹⁷ *INCOMPAS Comments*, p. 4.

¹⁸ *See, USTelecom Comments*, p. 7 (noting that “an effective solution that works well for one company, may prove ineffective and/or unwieldy for other companies. However, given the significant diversity of effective company best practices – combined with the fact that many carriers already have suitable best practices in place – there is no need for the Commission to specify or mandate them.”).

¹⁹ *ANI Comments*, p. 5.

highlighted similar benefits from such an approach,²⁰ while also noting the additional benefit that “resources that might have been diverted to new Commission requirements can instead be dedicated to improving and deploying competitive networks.”²¹ ITTA also encourages the same approach, stating that “intermediate providers be accorded the same treatment as covered providers were accorded in the Second RCC Order.”²²

Verizon also agrees with USTelecom’s recommendation that “the Commission should model the self-monitoring requirement for intermediate providers after the monitoring requirement for covered providers.”²³ Verizon correctly notes that “adhering to different monitoring standards as a covered provider and intermediate provider would be burdensome, costly, and unnecessarily difficult to implement.”²⁴ Verizon observes that “some providers may find certain best practices useful, while others may prefer different best practices based on their particular networks, technologies, and call patterns.”²⁵ Directly quoting the Commission’s own assessment, Verizon further notes that “converting voluntarily developed best practices into mandatory standards ‘could have a chilling effect on future industry cooperation to develop solutions to industry problems.’”²⁶

²⁰ *INCOMPAS Comments*, p. 4 (noting that “this self-determinative approach to the Commission’s new monitoring requirement for covered providers should reduce the overall burden on providers by leveraging existing practices while simultaneously allowing providers to tailor call completion solutions for their individual networks.”).

²¹ *Id.*.

²² Comments of ITTA, WC Docket No. 13-39, p. 6 (submitted June 4, 2018) (*ITTA Comments*).

²³ *Verizon Comments*, p. 11.

²⁴ *Id.*

²⁵ *Id.*, p. 8.

²⁶ *Id.*, p. 9 (citing 2nd RCC Order, ¶ 9).

The Commission should also reject recommendations from various parties calling for increased certification requirements for Intermediate Providers. For example, NTCA proposes an annual certification for Intermediate Providers that would require companies to certify they are “adhering to [ATIS best] practices, that it is not transmitting covered voice communications to other intermediate providers not registered with the Commission, and that it will hold its own routers to the same standards.”²⁷ ANI similarly proposes that Intermediate Providers be required to “to file an annual certification that they comply with the Commission’s registration requirements.”²⁸

The Commission should reject these proposals. Had Congress viewed such certifications as necessary to address rural call completion issues, it would have included such obligations in the RCC Act. Certification obligations are also unnecessary, since the Commission already has sufficient authority under the RCC Act to address instances of non-compliance. ITTA similarly agrees that such certification mandates are unnecessary.²⁹

The Commission should also reject the recommendation from West Telecom Services, LLC (West) regarding the establishment of a certification of registration by downstream providers.³⁰ Congress’ clear intent in passing the RCC Act was to ensure greater transparency for Intermediate Providers, and therefore established the provider registry.

Moreover, as addressed in USTelecom’s Petition for Reconsideration, Covered Providers are unable to directly observe the performance of Intermediate Providers with whom they do not

²⁷ Comments of NTCA, WC Docket No. 13 – 39, pp. 4 – 5 (submitted June 4, 2018) (*NTCA Comments*).

²⁸ *ANI Comments*, p. 7.

²⁹ *ITTA Comments*, pp. 5 – 6.

³⁰ Comments of West Telecom Services, LLC, WC Docket No. 13 – 39, pp. 11 – 12 (submitted June 4, 2018) (*West Comments*).

have direct interconnections.³¹ It would be far more efficient for the Commission to adopt the same flexible, standard-based approach to call quality standards for Intermediate Providers that it did for Covered Providers. If all providers are held to the same standards for call quality, there is no need to create an unwieldy and unmanageable contractual compliance framework that is administratively inefficient, time consuming and unfair.

III. Commenters Agree That the Self-Monitoring Requirement and RCC Act Obligations Should Only Apply to Rural Areas, and not be Applied on a Nationwide Basis.

Additionally, various commenters acknowledge the importance for the Commission to limit any monitoring obligations for Intermediate Providers only on calls to rural areas. For example, CTIA stated that the “new monitoring rule and the Commission’s oversight of intermediate providers pursuant to the RCC Act are targeted to ensure calls are completed to rural areas.”³² CTIA extensively detailed how the provisions of the Commission’s 2nd RCC Order and the subsequent passage of the RCC Act are targeted towards “ensuring that all parties involved in completing calls to rural Americans are held accountable for their practices.”³³

Verizon extensively detailed this issue, noting that this proceeding has “always been about *rural* call completion,” and that the Commission should therefore “interpret the scope of the RCC Act consistent with that approach.”³⁴ It further notes that “nothing in the RCC Act limits the Commission from exercising its authority as the expert agency and interpreting the Act this way.”³⁵ Verizon emphasizes that both the statutory language and the legislative intent also

³¹ See, USTelecom Petition for Reconsideration, WC Docket No. 13 – 39, pp. 3 – 5 (submitted June 4, 2018) (*USTelecom Petition*).

³² Comments of CTIA, WC Docket No. 13 – 39, p. 4 (submitted June 4, 2018) (*CTIA Comments*).

³³ *Id.*, p. 3. See also, *CTIA Comments*, pp. 2 – 4.

³⁴ *Verizon Comments*, p. 17 (emphasis in original).

³⁵ *Id.*

support applying the RCC Act only to rural areas. USTelecom agrees with Verizon that, absent clarification on this issue, “the burden imposed by the new rules would vastly increase.”³⁶

Verizon’s arguments underscore USTelecom’s request that, absent clarification, the Commission should forbear on its own motion from applying such monitoring obligations on Intermediate Providers for calls to urban areas.³⁷

IV. The Commission Should Expeditiously Sunset its Recording and Retention Rules Which are no Longer Necessary, and Ignore Suggestions for Additional Certification Requirements.

There is broad support in the record for the Commission to expeditiously sunset the recording and retention rules established in its original 2013 RCC Order. Parties supporting a sunset of this requirement rightly emphasize the superseding effect of the RCC Act, the minimal utility of the data being retained, and the administrative burdens associated with any recording and retention framework.

For example, several parties acknowledged the Commission’s own observation that the Bureau found that the data quality had limited its ability to make use of the collected data, and that the framework was largely “ineffective.”³⁸ For example, NCTA highlighted the Commission’s conclusion that the “data generated through these requirements is not particularly useful in identifying or resolving rural call completion problems,” and that rural call completion issues could be better addressed “without the need for burdensome recordkeeping and retention rules that have not yielded useful information.”³⁹ Other providers shared similar observations, with Sprint noting that where “the rules generate little or no public interest benefits, the rules should be

³⁶ *Id.*, p. 18.

³⁷ *See, USTelecom Comments*, pp. 10 – 15.

³⁸ *See e.g., Verizon Comments*, p. 1; *ITTA Comments*, p. 8; *CTIA Comments*, p. 6.

³⁹ *Comments of NCTA, WC Docket No. 13 – 39, p. 5 (submitted June 4, 2018) (NCTA Comments).*

eliminated as promptly as possible.”⁴⁰

ITTA noted the Commission’s conclusion in the 2nd RCC Order that while the recording and retention rules, along with the reporting requirements, have been “ineffective,” the Commission nevertheless retained the rules. ITTA then states that “with ‘ineffective’ as the benchmark, it is puzzling to ITTA how the value of the rules could further diminish from there.”⁴¹ ITTA then emphasizes that “the record in this proceeding evinces that, to the extent rural call completion problems endure, the real source of them has been the multitude of unidentified intermediate providers that often are links in the call path to a rural area, and the RCC Act’s measures targeting intermediate providers likewise recognize as much.”⁴²

NTCA was the only commenter proposing to retain recording and retention rules, however, its arguments are flawed. For example, while NTCA acknowledges Covered Provider “difficulties” with the rules, it then states that “they were effective in mitigating rural call completion problems.”⁴³ This statement simply ignores the fact that the administrative exercise of recording and retention has no impact whatsoever on addressing rural call completion issues. Rather, in passing the RCC Act, Congress agreed with the Commission that the prior framework (which included recording and retention of records) was an ineffective means for resolving rural call completion issues.⁴⁴

⁴⁰ Comments of Sprint Corporation, WC Docket No. 13 – 39, p. 4 (submitted June 4, 2018) (*Sprint Comments*). See also, *Verizon Comments*, p. 16 (noting that the “volume of call records the current rules require providers to retain is significant, and the burdens of recording and retaining data far outweigh whatever benefit they might provide. Providers should not be required to continue to waste resources recording and retaining these data.”).

⁴¹ *ITTA Comments*, p. 8.

⁴² *Id.*, p. 9.

⁴³ *NTCA Comments*, p. 5.

⁴⁴ See e.g., Report of the Committee on Commerce, Science, and Transportation On S. 96, Improving Rural Call Quality and Reliability Act of 2017, Report 115-6, pp. 2 – 3, March 21,

NTCA further states that absent record keeping, “there is no way to measure or enforce the language of the RCC Act.”⁴⁵ NTCA ignores the fact that Congress’s clear intent in passing the RCC Act was to move away from a reporting framework that Congress and the Commission found ineffective, and to instead implement a more effective framework focused on transparency. It is ironic that while NTCA itself states that “sunshine” is the “best disinfectant,”⁴⁶ it questions the transparency-centric registration framework established by the RCC Act, and instead embraces an administrative record retention approach that is shielded from external view. Given Congress’s clear intent, and the removal of reporting obligations for Covered Providers, there is simply no longer any need for providers to record and retain this information.

V. The Commission Should Establish a Reasonable Timeframe for Adjusting Contracts.

In its Notice, the Commission asks whether covered providers should be required to ensure that they comply with the requirement to use only registered Intermediate Providers within thirty days of the registration deadline for Intermediate Providers.⁴⁷ Various commenters have proposed a range of times as suitable for achieving this goal, which range from 90 days, to three years.⁴⁸ Several commenters note that thirty days is insufficient time for covered providers to make any contractual and/or traffic routing adjustments needed to comply with the RCC Act and

2017 (discussing the establishment of a public registry and service quality standards to address rural call completion issues).

⁴⁵ *Id.*, p. 6.

⁴⁶ *Id.*, p. 5.

⁴⁷ *Notice*, ¶ 84.

⁴⁸ *ITTA Comments*, p/ 4 – 5 (recommending a ninety day transition period); *ATIS Comments*, pp. 3 – 4 (recommending a three year transition period), *Sprint Comments*, pp. 2 – 3 (recommending a ninety day transition period), *West Comments*, p. 10 (recommending a six month transition period), *ANI Comments*, p. 4 (recommending a three month transition period), *INCOMPAS Comments*, p. 8 (recommending a six month transition period).

the Commission's implementing regulations.⁴⁹ USTelecom agrees that thirty days is insufficient for time to update the necessary contracts, and therefore supports implementation of a reasonable timeframe to ensure compliance.

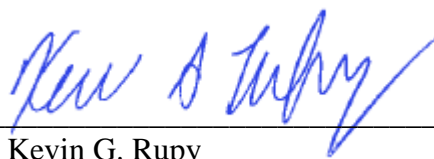
VI. Conclusion.

USTelecom supports the Commission's efforts to devise an effective and efficient framework to address rural call completion issues. For the reasons discussed herein, USTelecom encourages the Commission to adopt the proposals outlined in the record of this proceeding and these reply comments.

Respectfully submitted,

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⁴⁹ See e.g., *ATIS Comments*, p. 3 (stating that “ATIS does not believe that thirty days is enough time for covered providers to make any contractual and/or traffic routing adjustments needed to comply with the Improving Rural Call Quality and Reliability Act of 20175 and the Commission's implementing regulations.”); see also, *INOMPAS Comments*, p. 8 (stating that its members “insist that 30 days is not enough time to make adjustments to existing contractual arrangements. Long-distance providers maintain dozens of agreements with providers throughout the call chain, and it is impractical to insist on such a compressed timeline.”).